

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT**

**IN THE MATTER OF:
THE APPLICATION OF YUCCA
GROWTH INFRASTRUCTURE'S,
LLC FOR AN AIR QUALITY PERMIT,
NO. NSR 10883**

AQB 26-57 (P)

RESPONSE IN OPPOSITION TO REQUEST TO CHANGE HEARING DATE

The New Mexico Environmental Law Center, on behalf of Jose Saldaña Jr. and Vivian Fuller, (collectively, “Community Members”), and with the Center for Biological Diversity, respectfully provide the following Response in Opposition to the Sheet Metal Workers Local Union No. 49’s (hereinafter “Union”) Request to Move Hearing Date Forward, submitted on July 20, 2026.

In its Request, the Union appears to similarly misinterpret the requirement of a November 23, 2026 permitting deadline,¹ and assert, without support, that, unless the Yucca Growth Infrastructure, LLC (“YGI”) permit application hearing is moved forward, the Union will face lost wages and job time. While the Department is certainly allowed to consider such a request

¹ While it is correct that the Department must either grant, grant subject to conditions or deny the YGI’s Application “within ninety (90) days after the department deems the application administratively complete, if the application is not subject to the requirements of 20.2.74 NMAC (Prevention of Significant Deterioration),” and “the secretary may grant an extension, not to exceed ninety (90) days ... if the secretary determines good cause exists,” 20.2.72.207 (B) and (C) NMAC, such a 180 day deadline does not apply to situations when a public hearing has been granted. This authority is clearly demonstrated by the plain language of the Department’s regulations governing permit procedures, as well as the Department’s previous practice of ensuring parties to a public hearing have a reasonable amount of time to prepare to present technical testimony and meaningfully engage in the hearing. See generally Air Quality Bureau 20-12 – Permit Application for Associated Asphalt and Materials LLC No 8585 Administrative Record, Accessible at https://cloud.env.nm.gov/resources/_translator.php/MzYyMjBjNjMxNzNhNjJINDk5NGI2NjE0Yl8yNjYwNA~~.pdf (last viewed July 20, 2026).

and claim of prejudice, Community Members and the Center for Biological Diversity remind the Department of its obligation to ensure that all interested parties have sufficient time to prepare for a hearing and are able to meaningfully participate in a hearing on YGI's Application for Permit No. NSR 10883. 20.1.4.100(B) NMAC; see also 20.1.4.100(E)(2) and (F)(2) NMAC (emphasis added). Notably this alleged prejudice to the Union is ultimately a product of misplaced reliance on YGI's false promises and poor decision-making, as YGI chose to invest resources into a project before ensuring all appropriate permitting approvals are in place. Indeed, any prejudice to the Union is only attributable to YGI and other project proponents, who continue to misrepresent the project's benefits to New Mexico residents and insist on ignoring established processes for permitting projects of this magnitude. While it is common corporate strategy to begin construction before securing all applicable permits in order to force agencies into permit approvals, such a strategy should not be authorized by the Department.

Furthermore, as many parties expressed at the July 15 scheduling hearing, rushing this process will result in the inability to put together a meaningful case – particularly, and conveniently for YGI and the Department, a case demonstrating the significant deficiencies in YGI's Application and technical analysis. The schedule, as currently proposed, ensures that all parties are better able to meaningfully participate, conduct necessary discovery, and allow the Department to consider all relevant information when making a decision that serves to significantly impact all New Mexicans. If the hearing schedule were to be shortened, such a process will almost certainly violate the parties and the public's right to notice and an opportunity to be heard. *See Reid v. New Mexico Bd. of Exmrs.*, 1979-NMSC-005, ¶ 6, 92 N.M. 414 (“The Fourteenth Amendment guarantees every citizen the right to procedural due process in state proceedings ... By ‘procedural due process’ we mean the following: ... one whom is sought

to deprive of such rights must be informed of this fact (that is, he must be given notice of the proceedings against him); he must be given an opportunity to defend himself (that is, a hearing); and the proceedings looking toward the deprivation must be essentially fair”(citations omitted); *see also Maso v. N.M. Tax’n & Revenue Dep’t, Motor Vehicle Div.*, 2004-NMSC-028, ¶ 10, 136 N.M. 161 (in a civil administrative proceeding notice must be *reasonably* calculated to apprise the litigant of the date and time of the hearing). As such, Community Members and the Center for Biological Diversity urge the Department to deny the Union’s Request.

Submitted on this 21st day of July, 2026.

/s/ Maslyn Locke

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CERTIFICATE OF SERVICE

I certify on July 21, 2026, a true and correct copy of the foregoing Response was served by email to:

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